IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUNATION SHEET
CIVIL APPLICATION NO.3276 OF 2003
IN
FIRST APPEAL NO.1267 OF 2003

Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders.	Court's or Judge's orders

Mr.S.M.Vidyarthi for the Applicant
Mr.Vishwajit Sagare for Respondent No.7.

CORAM: A.S.OKA, J.
DATE : JANUARY 29,2007.

P.C.:

1. Heard Shri Vidyarthi for the Applicant. The Applicant is the Insurance Company which is held liable to pay compensation under the impugned Judgment and Award on the ground that the offending vehicle was validly insured with the Applicant on the date of the Award. The contention raised in the Appeal is that the material on record produced before the Tribunal shows that the 7th Respondent-New India Assurance Company Ltd. was liable to pay compensation as the offending vehicle was insured with the said Insurance Company on the date of the incident.

2. Thus, even if the Applicant succeeds

in the Appeal, the amount deposited by the Applicant on the basis of the impugned Award can be recovered by the Applicant from the New India Assurance Company Ltd. In between the fight of two Insurance Companies, the original claimant cannot be allowed to be suffer. Perusal of the impugned Judgment shows that none of the Insurance Companies have come out with a case that the liability of the Insurance Company was limited. Hence, no case is made out for stay.

3. Subject to what is stated above, Application is disposed of by passing the following order :

i) The Tribunal will pass an appropriate order for disbursement of the amount deposited by the Applicant.

ii) A sum of Rs.25,000/- deposited in this Court be transmitted to the concerned Tribunal.

iii) Subject to what is stated above, Civil Application is rejected.

JUDGE